

EXAMINERS' COMMENTS

SUBJECT	SESSION
Company Law	Intermediate - Autumn 2007

Overall Feedback

The overall performance of the candidates was satisfactory. However, it was felt that many students study from notes and other material and do not study the Companies Ordinance, 1984 (CO-1984). In order to understand the law, the candidates should study directly from the Ordinance. They may consult notes and other books wherever they require any interpretation/clarification or for enhancing their knowledge further. It has also been observed that many students get confused between the functions of three authorities viz. SECP (the Commission), the Court and the Registrar. They should conceptually understand and distinguish between their respective roles and responsibilities as this will help them to avoid losing easy marks.

Question-wise Comments

- Q.1 (a) Most of the examinees restricted the procedure of alteration of the Articles of Association, to passing a special resolution only. The requirement of filing the copy of the resolution with the Registrar was mentioned by few candidates only.
- (b) It was an easy question based on Section 50 of the Companies Ordinance, 1984 and was well attempted by majority of the candidates. However, the requirement to advertise the notice in the newspaper were mentioned by few candidates. Even fewer were able to explain completely that the newspaper in which the notice is advertised should have circulation in the province in which the stock exchange, on which the company is listed, is situated.
- (c) The performance of the candidates was very unsatisfactory in this part. Very few candidates could explain the meaning of the term 'member' as given in Section 2(21) of the CO-1984.
- Q.2 (a) Candidates' performance in this question was satisfactory. The replies were normally relevant and based on Section 87 of the CO-1984. A large number of students secured full marks.
- (b) This part of the question, based on section 85 of the Companies Ordinance, 1984, was also well attempted by majority of the candidates. However, the point that preference shares can be redeemed out of sale proceeds of any property of the company, was missed by many candidates.
- Q.3 (a) It was a simple question based on Section 251 of the CO-1984. This area seemed to have been covered well by most of the candidates and many of them were able to secure full marks

- (b) The performance of the students in this question based on Section 230 of the Companies Ordinance, 1984, was good. However, many candidates did not mention that the company can keep its books of account at any other place in Pakistan, as the directors may decide.
- (c) It was a poorly attempted question as most of the candidates mentioned that according to Section 158 of the CO-1984, the company has to hold its annual general meeting within 18 months of its incorporation. Most of them failed to take into consideration the requirement of Section 233 according to which AGM has to be held within four months of the date to which the accounts have been prepared.

- Q.4
- (a) Most of the candidates were able to quote the steps involved in alteration of the Memorandum of Association as are given in Sections 21 and 22 of the Companies Ordinance, 1984. However, most candidates failed to mention the important requirement of filing the certified copy of the order of the Commission along with altered memorandum with the Registrar within 90 days of the order. This requirement is important because failure to register the change within 90 days as required under Section 24 of the Ordinance, renders the change null and void as has been explained in Section 25 of the Ordinance.
 - (b) This part of the question was also poorly attempted. The examiner expected the candidates to explain the following issues as regards a circular resolution:
 - (i) The passing of a resolution by circulation is allowed if the same is allowed by the Articles of Association.
 - (ii) The resolution if signed by all such directors who are entitled to receive notice of meeting, shall be as valid as a resolution passed in a duly concerned meeting of directors.

Very few of the students covered the above points with clarity.

- Q.5
- (a) A very unsatisfactory response was noted in this question. The students were required to narrate the company's course of action for registration of pari passu charge over a series of debentures. Majority of the students had no clue to the answer and it seemed that they had not studied Section 123 of the CO-1984. Surprisingly many candidates wrote how the register of mortgage is to be maintained and where it should be kept, which was not at all required.
 - (b) It was an easy question related to buy back of company's own shares. Many candidates secured good marks in this high scoring question. A common mistake which was observed in many scripts was that the candidates did not mention an important condition which the company should comply with i.e. a return shall be filed with the Commission and the Registrar within 30 days of buy back of shares, containing a declaration of insolvency alongwith the particulars relating to the purchase.

- Q.6 (a) It was an easy question based on Section 219 and the candidates were generally able to list down the particulars to be entered in the registers for contracts, arrangements or appointments. Even those candidates who used a little bit of common sense, were able to get a reasonable number of marks.
- (b) The performance of the candidates in this part of the question was just average. Most of them mentioned some but could not state all of the important conditions related to the use of official seal outside Pakistan as are given in Section 213 of the Companies Ordinance 1984.
- (c) It was the easiest question for the candidates and many of them secured full marks. Surprisingly, few candidates did not attempt this question in spite of the fact that the name of at least one of the registers was given in the question paper itself.
- Q.7 (a) It was a straight forward question from Section 187 of the Companies Ordinance, 1984 and many candidates secured good marks. Many candidates mentioned that a person representing the government or institute or authority can be a director without clarifying that it will be possible only when such government or authority or institution is the member of the company.
- (b) This part required the candidates to explain the rights of the shareholders, if they were unsatisfied with the vote count. The result was average as only about half the candidates were able to explain their point of view in the light of section 167 and 168 of the Companies Ordinance, 1984.
- (c) The performance of the candidates was below average. Many candidates incorrectly stated that since the wife of Mr. Sami holds the directorship in Yousuf Textile Mills Ltd., he can not be appointed as chief executive of Akhtar IT services (Pvt) Limited as it was the subsidiary of Yousuf Textile Mills Limited. In fact there are certain restrictions on the appointment of CEO if the person being appointed or his/her spouse is carrying out a business similar in nature to the business of the company. Those restrictions have been referred to in Section 203 of the Companies Ordinance, 1984 but no such restriction was applicable in the situation given in the question.
- Q.8 (a) The students were generally able to quote few of the rules relating to appointment of proxy as given in Section 161 of the CO-1984 but very few of them could mention all the related rules. Specially, the rules that no members should appoint more than one proxy and if more than one proxies are deposited by a member, all such proxies shall become invalid; were quoted by very few students.
- (b) Surprisingly, the performance of the candidates was just average in this simple question based on Section 236 of the Companies Ordinance, 1984. Many candidates got confused and started describing the rules relating to the signing of auditors report instead of the rules relating to authentication of directors' report.

(THE END)